

EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

24 CR 447 (RA)

5 CHARLIE HERNANDEZ,

6 Defendant.

Sentence

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7
8 New York, N.Y.
9 December 20, 2024
11:00 a.m.

10 Before:

11 HON. RONNIE ABRAMS,

12 District Judge

13 APPEARANCES

14 EDWARD Y. KIM

15 Acting United States Attorney for the
Southern District of New York

16 BY: BENJAMIN A. GIANFORTI

Assistant United States Attorney

17 CHRISTOPHER D. WRIGHT

18 Attorney for Defendant

1 (Case called)

2 MR. GIANFORTI: Good morning, your Honor, Ben
3 Gianforti for the government.

4 THE COURT: Good morning.

5 MR. WRIGHT: Good morning as well, your Honor,
6 Christopher Wright for Charlie Hernandez, who is present today
7 in court seated to my immediate right.

8 THE COURT: Good morning to you as well.

9 This matter is on for sentencing. Mr. Hernandez pled
10 guilty in July to operating an unlicensed money transmitting
11 business.

12 In connection with today's proceeding I have reviewed
13 the following submissions: The presentence investigation
14 report, dated October 30; Mr. Hernandez's sentencing
15 memorandum, dated December 10, with accompanying exhibits; and
16 the government's sentencing memorandum, dated December 13.

17 Have the parties received each of these submissions?

18 MR. GIANFORTI: Yes.

19 MR. WRIGHT: Yes, we have.

20 THE COURT: I want to note, I thought the submissions
21 on both sides were really excellent, so I want to thank you for
22 that.

23 Why don't we begin by discussing the presentence
24 report, which is prepared by the probation department.

25 Mr. Wright, have you read the presentence report and

1 discussed it with your client?

2 MR. WRIGHT: Yes, we have.

3 THE COURT: Do you have any objections?

4 MR. WRIGHT: No objections.

5 THE COURT: Mr. Hernandez, did you have a chance to
6 read the presentence report?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Did you discuss it with your attorney?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Does the government have any objections to
11 the presentence report?

12 MR. GIANFORTI: No, your Honor.

13 THE COURT: The Court adopts the factual findings in
14 the report. The presentence report will be made part of the
15 record in this matter and placed under seal. If an appeal is
16 taken, counsel on appeal may have access to the sealed report
17 without further application to the Court.

18 Mr. Hernandez, when you pled guilty back in July, we
19 discussed the federal sentencing guidelines.

20 Do you remember that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: The guidelines, as you know, are a set of
23 rules that are published by the United States Sentencing
24 Commission, and they are designed to guide judges when they
25 impose sentence. Although at one time they were mandatory,

1 meaning judges were required to follow the guidelines, they are
2 no longer binding, but judges must nonetheless properly ensure
3 that they are calculating the guidelines properly and consider
4 them in imposing sentence.

5 Do the parties agree with the guidelines calculation
6 in the presentence report, pursuant to which Mr. Hernandez's
7 offense level is 17, his criminal history category is I, and
8 his recommended guidelines sentence is 24 to 30 months?

9 MR. GIANFORTI: Yes.

10 MR. WRIGHT: Yes. The defense agrees.

11 THE COURT: I agree as well. I did my own independent
12 calculation of the guidelines, and I agree with the calculation
13 in the presentence report.

14 As I said a moment ago, that range is only advisory.
15 Courts can impose a sentence outside of that range based on one
16 of two legal concepts, a departure or a variance. A departure
17 allows for a sentence outside of the advisory range based on
18 some provision in the guidelines themselves. In the plea
19 agreement both parties, however, agree that no departure from
20 the guidelines range is warranted, and I just want to confirm
21 that that's correct.

22 MR. GIANFORTI: Yes, your Honor.

23 MR. WRIGHT: Yes. That's correct.

24 THE COURT: Nevertheless, I have considered whether
25 there is an appropriate basis for departure from the advisory

1 range. And while recognizing that I have the authority to
2 depart, I don't find any grounds warranting a departure under
3 the guidelines.

4 But I do, of course, also have the ability to impose a
5 nonguidelines sentence based on what we call a variance
6 pursuant to the factors set forth in 18 United States Code
7 Section 3553(a). And I know that that is what Mr. Hernandez is
8 seeking, and the government is not objecting, although it's
9 advocating for a three-month, is my understanding.

10 I just want to confirm before we proceed that none of
11 the codefendants have been sentenced yet, is that correct?

12 MR. GIANFORTI: That's right. Mr. Hernandez is the
13 first of the five flight attendants that were charged.

14 THE COURT: Thank you.

15 Would the government like to be heard?

16 MR. GIANFORTI: Yes, your Honor. May I address the
17 Court from the podium?

18 THE COURT: Yes. Just please speak into the
19 microphone.

20 MR. GIANFORTI: Your Honor, as you rightly noted, the
21 government is seeking a sentence of approximately three months
22 in this case.

23 Your Honor, this is a difficult case, and I think
24 that's reflected in the government's sentencing submission, the
25 defendant's sentencing submission because, on the one hand, the

1 conduct here is very serious, and I want to talk a little bit
2 more about that. But on the other hand, Mr. Hernandez has a
3 lot going on, I think a lot of things that are mitigating in a
4 case like this, so that's why the government arrived at its
5 recommendation, which I think reflects on our part a delicate
6 balancing of all these things.

7 Let me walk through what our thinking was around our
8 recommendation.

9 Your Honor, while the guidelines here reflect a
10 relatively modest dollar amount that's at issue, we essentially
11 held Mr. Hernandez responsible for that one money drop that we
12 were following and were aware of, the \$120,000 one that's
13 mentioned in the underlying complaint.

14 But, of course, the presentence report, which is
15 unobjected to, says that Mr. Hernandez, over the course of the
16 five or so years that he was doing this for our cooperator,
17 moved something like 2 or \$3 million in drug money over the
18 course of that, so he is doing this repeatedly over and over
19 again.

20 If you do the math on it, the one money drop that's
21 the focus of the complaint, it looked like he was going to try
22 to do about \$60,000, and that is what his then codefendant,
23 Sara Pujols, got caught with, about \$60,000.

24 If you think about how much cash you can kind of
25 realistically bring with you on any given run in your luggage,

1 in your bag, whatever, he is not going to be able to bring a
2 million dollars at a time. You can't pack that much cash into
3 a carry-on bag, let's say.

4 Let's assume that he is doing runs on the order of
5 magnitude of about \$60,000, maybe a little bit more than that.
6 If you sort of divide that into the 2 or \$3 million that we
7 estimate that he did over those five years, that's a lot of
8 runs. He is doing this repeatedly.

9 I think it's also important to keep in mind the
10 broader context of the government's case as a whole, really the
11 case against our cooperator's money-laundering organization as
12 a whole. And just the piece that we took down, these five
13 flight attendants, if you aggregate the estimated amounts of
14 money that they were moving, it ends up being 10, 15, \$20
15 million. That's just what we are aware of.

16 Just to give you a sense, our cooperator was an
17 incredibly successful mover of drug money from this area to the
18 Dominican Republic for many, many years, and we caught just a
19 piece of it.

20 I think it's also important to remember that these are
21 not marijuana dealers that he is moving money for. They are
22 moving opioids in bulk, some of them laced with fentanyl. I
23 know this because our cooperator actually sold some of those
24 pills to us before we charged him.

25 And these aren't just sort of run-of-the-mill

1 businessmen in the drug trade. These are dangerous drug
2 dealers. On multiple times during the course of this
3 investigation our cooperator has been personally threatened by
4 the drug dealers that he has had as clients for not being able
5 to move money when they want him to, money maybe going missing,
6 things like that. These are people who are prepared to kill,
7 frankly, if their business is disrupted.

8 Mr. Hernandez was a conduit for these people. He
9 allowed their money to get from here, where they don't want it,
10 because they can't spend it, down to the Dominican Republic so
11 they can live high in the hog down there. Your Honor, you have
12 seen enough drug cases to know that this is a lucrative trade
13 and opioids -- this country is awash in opioids, and Mr.
14 Hernandez reflects a very small slice of it, but nonetheless an
15 important part of it.

16 Your Honor, I would also like to just underline again
17 that Mr. Hernandez really abused the position of trust here
18 with his known crew-member status. In fact, you wouldn't have
19 been aware of this, your Honor, but before the PSR was
20 finalized, there was some discussion between myself and the
21 probation office about whether the abuse-of-trust enhancement
22 under 31.3 was applicable here.

23 THE COURT: I actually was going to ask about that.

24 MR. GIANFORTI: I went back and forth with at least
25 one or two of the lawyers that represent these flight

1 attendants, and they convinced me that it's not applicable
2 here. If you look at the notes below that guideline, it
3 basically contemplates somebody who has got like a fiduciary
4 relationship with a client -- a lawyer with their client or an
5 investment manager with their client where they are abusing
6 that position of discretion, trust, etc., and it explicitly
7 says below that that this enhancement does not apply to say a
8 bank teller who just has access to money by virtue of being a
9 bank teller.

10 Given all of those facts and given what happened here,
11 we agreed, the government agreed, that that enhancement was not
12 applicable here.

13 THE COURT: But I will say -- and I am glad you raised
14 this, because it feels like a breach of trust.

15 MR. GIANFORTI: I agree.

16 THE COURT: Given the way in which our airports and
17 our airlines are tied with national security, it feels like
18 that, and it's a fair issue to raise, even if it doesn't affect
19 the guidelines.

20 MR. GIANFORTI: I think it's one of these things where
21 it's a little bit like what I said a moment ago about the
22 amount of money that we think that he moved over the course of
23 those five years. It's not reflected in the guidelines, but
24 that doesn't mean that your Honor has to close your eyes to it.
25 It is the same thing here. I think you're quite right, there

1 was an abuse of trust. Airports are the front lines in this
2 country. They keep bad stuff out, to the extent they can, and
3 they keep bad stuff in, to the extent they can, so, in this
4 case, drug money.

5 Mr. Hernandez had this status. He knew that it meant
6 he wasn't going to get a close look at the airport, and he
7 abused it. As I say, he abused it repeatedly.

8 Your Honor, I think I also would just like to
9 highlight again that there really is a need for general
10 deterrence in this case. I'll tell you that in the course of
11 this investigation I spoke to JetBlue. I spoke to some of the
12 other airlines that are involved in this investigation.

13 Frankly, I was shocked that this kind of conduct, the
14 smuggling of bulk cash, was really not a risk that they were
15 alive to. There weren't trainings. There weren't compliance
16 controls. There really wasn't anything that these airlines
17 were doing other than just saying, don't break the law, but
18 like nothing specific about this particular risk. Particularly
19 along routes like New York to the Dominican Republic, where
20 huge drug market here, huge amount of drug dealing coming out
21 of the Dominican Republic, nothing is in place.

22 I think even a short term of imprisonment here will
23 send a general message to the airline industry that this is
24 incredibly serious. They need to take it seriously. Every
25 flight attendant in the airline business in the United States

1 needs to take this seriously.

2 Your Honor, again, while the government is very
3 sympathetic to the defendant's personal circumstances, I think
4 a term of imprisonment is still necessary here because of that
5 general deterrence factor, and I have every confidence that the
6 Bureau of Prisons, for whatever stay your Honor imposes, if
7 any, will be able to take care of Mr. Hernandez during that
8 period.

9 Your Honor, just another note that I think I didn't
10 include in our sentencing submission is that I've really come
11 to view this case not as a case about greed, necessarily.
12 Really, it seemed like the people that were involved in this
13 money movement were kind of just doing it for a little extra
14 cash on the side.

15 Mr. Hernandez, by the end of his time at JetBlue, was
16 actually making a pretty sizeable salary, as you know. But
17 some of these folks that are less senior are really not making
18 a lot of money. I think that they are unionized, and they are
19 really not making a ton of money.

20 I think it's important for your Honor to know, from
21 our perspective, this isn't like a typical fraud, where they
22 are taking money from victims and going and buying luxury
23 goods, something like that. I have got no evidence of that. I
24 think this was really about having a little bit of extra
25 spending money, frankly. That doesn't excuse it, but I think

it's important context for your Honor.

Unless you have any other questions for me, your Honor, that's all the government has to say.

THE COURT: No. Thank you.

I do think it's worth recognizing that the government has taken a pretty unusual position in this case and made what appears to be a very reasonable recommendation. I understand Mr. Hernandez disagrees, and I'll hear you out, but I also think that the office should be commended for when it does kind of make a recommendation significantly below the guidelines, because it's really looking at Mr. Hernandez. Sometimes, you know, good people do bad things, and there is sort of a recognition of mitigating factors, but also all of the factors that were just noted by AUSA Gianforti.

In any event, why don't I hear from you, Mr. Wright.

MR. WRIGHT: Thank you, your Honor.

Judge, may I use the podium?

THE COURT: Yes, please.

MR. WRIGHT: Your Honor, I think you just said it best, that sometimes good people do bad things. Lord knows, I have represented all manner of criminal clients in my career. Charlie falls into that category, Charlie Hernandez, that is, my client, falls into that category of men who I have represented who are really a good person.

Since his arrest in May, I have had many meetings with

1 Charlie. I have gotten to know him and his family, many of
2 whom are present today in court.

3 Just for the record, his mom; his dad; two aunts;
4 cousins; his niece and nephew, who are very much more like a
5 son and daughter rather than simply a niece and nephew to him,
6 and he is very much their father figure; as well as his fiancé,
7 are all present in court.

8 THE COURT: Thank you all for being here today.

9 MR. WRIGHT: I can see Charlie made an awful choice.
10 He had a great career that he really loved, as he described to
11 me. It was quite glamorous. He flew around the world, has
12 been everywhere, has seen all manner of wonderful cities and
13 been to great places.

14 And he really is a great success story in so many
15 ways, a great immigrant success story. He came to the United
16 States from the Dominican Republic when he was 11 years old.
17 His parents worked hard. His mother and father are here. His
18 father labored at a bodega in Queens. And they are deeply
19 disappointed, deeply disappointed as to the decisions Charlie
20 made, as is his family.

21 The sense I get is, Charlie was living this, as I said
22 in my memo, this very secret life engaged in this behavior.
23 And I have spoken to Charlie about it, and he has been quite
24 frank with me, and I think he was frank in the letter that he
25 wrote to your Honor and in the statements that he will make

1 today, that he wasn't thinking about consequences. He was not.
2 He was not envisioning him being here today facing the
3 terrifying prospect of going to a federal jail.

4 And as the government said, the benefit that Charlie
5 got from this, if you will, was rather meager. It was not a
6 great payoff for Charlie. The risk and the reward just did not
7 match up in any meaningful way.

8 Since he was arrested, these about eight or nine
9 months, he has done everything that one would hope if someone
10 has been arrested and facing federal prosecution. He has taken
11 this nothing but extraordinarily seriously. He has entered
12 mental health treatment to treat his depression and bipolar
13 factors that may have contributed to the poor decision making
14 he has made in the past but, needless to say, are not an
15 excuse, but I think simply helps explain to him and to his
16 family and fiancé, in particular, to sort of understand and
17 grapple with why Charlie would risk so much.

18 As the government said, he had a good job, and he
19 really enjoyed it. He loved that job. And as the letters I
20 submitted on behalf of his colleagues, they loved him as well.
21 He was really a well-regarded employee at JetBlue.

22 Charlie is anguished about today, as maybe you can
23 see. But I will tell you, despite his appearance today, he is
24 doing much better, much better, I can say, than when he was
25 first arrested.

1 He expressed to me suicidal ideation. He told that
2 when he was first arrested. There was concern because he had
3 expressed that to the arresting officers, and that was a
4 recommendation of pretrial, that he seek treatment and, again,
5 something that he has faithfully and consistently done.

6 As I talked about in my memo, Judge, facing the
7 prospect of jail is forboding for anybody, but especially for
8 an openly gay man entering, whether it's the Federal Bureau of
9 Prisons or any jail. Unfortunately, it's perilous to be a gay
10 man in an American jail today, tragically and unfortunately.

11 I discussed that in my memo, but, needless to say,
12 Judge, that's not a get-out-of-jail-free card, and Charlie
13 understands that, but it is the sad and grim reality of our
14 jails.

15 There are other concerns as well for him, that he
16 would like to continue in the mental health treatment that he
17 has dutifully been partaking. Jail, of course, would disrupt
18 that, as well as his other concerns about his physical
19 conditions that I talked about in my memo. He is concerned and
20 wants to make sure he can attend to those, as he faithfully has
21 done in taking care of himself.

22 Judge, our request, and I acknowledge it was a
23 significant variance from what the guidelines recommend and
24 what probation recommended, and I as well, Judge, appreciate
25 deeply the recommendation from the government, as does my

1 client.

2 Our request, again, just was a term of home
3 confinement, community service, a term of postrelease
4 supervision that the Court feels is just and appropriate, and I
5 think that would speak to all of the 3553(a) factors.

6 And, admittedly, I think the one difficulty we have,
7 if you will, of all of the 3553(a) factors, which I suppose
8 exists in every case, but it is particular to this case, is the
9 issue of general deterrence.

10 And the government brings up a good point. How do we
11 deter airline stewards or airline employees at any level
12 engaging in this behavior? I don't know. I don't think the
13 world would see -- airline stewards, for instance, would look
14 out and see, oh, Charlie Hernandez got away with this. He got
15 a slap on the wrist. He didn't have to go to jail.

16 My sense, from speaking to Charlie and speaking to his
17 family, is that the other airline stewards have been
18 traumatized by what happened to Charlie, that it is well known
19 within the industry what happened to Charlie, and that this
20 ordeal has been awful for him, of course, because of his own
21 decision making, no one else's but his.

22 THE COURT: I often question how much general
23 deterrence works, in certain cases at least. I think in some
24 cases it does. I think more so in the white collar area.

25 But within this community of flight attendants, I do

1 think the difference between getting a jail sentence, even if
2 it's a short one, and not really does serve a deterrent value
3 within that community who are following a case like this. Like
4 maybe the people at large won't hear about it, but people
5 within that community who work for airlines I think will, and
6 it really may lead people to say this is not worth the risk,
7 right.

8 MR. WRIGHT: I am sure that once this case is
9 resolved, the rest of the world will pay no notice to this, but
10 I don't doubt that airline stewards will definitely take note
11 of the outcome of this case, and that will possibly be part of
12 their calculus to whether or not they were to engage in similar
13 behavior, thinking, well, I may go to jail if I do this.
14 That's very well possible and likely true if airline stewards
15 were to think that. I think that's likely true.

16 I do think, though, again -- and I can feel it,
17 especially with Mr. Hernandez, the pain and the trauma of what
18 has happened to him, the public humiliation, have all been very
19 profound, and obviously for him in terms of specific
20 deterrence, but I completely understand the Court's point about
21 general deterrence. I do think it does have a related effect.
22 I think that the very act of walking into this building, for
23 instance, was troubling and difficult for Charlie.

24 THE COURT: I'm sure.

25 To be clear, I don't think, and I don't hear the

1 government to say that there is a concern about recidivism with
2 respect to Mr. Hernandez. I think specific deterrence is not a
3 concern here.

4 I can look at him right now. I can see how scared he
5 looks, honestly how emotional this is. I don't doubt that for
6 a minute. And, as I said earlier, I don't doubt that he is the
7 good person that all of the friends and family who wrote in
8 about him are.

9 I think, from my perspective, general deterrence and
10 recognizing the seriousness of the crime are the most important
11 or relevant sentencing factors here today.

12 MR. WRIGHT: I agree completely, your Honor.

13 If I didn't say, I want to emphasize that Charlie does
14 understand how serious this crime was. He really does. And
15 when his coconspirator was detained back in 2019 and \$60,000
16 was found on her, he promptly and immediately stopped engaging
17 in this behavior. It hit him hard then. And, of course, once
18 he got arrested, he realized that this is a really serious
19 offense and is sort of the back end, if you will, of the
20 narcotics trade in this country, as the government discussed,
21 that Charlie recognizes that he has, unfortunately and
22 tragically, played a role in that trade.

23 Again, not something that his parents envisioned when
24 they brought him here as a young boy and not something that
25 Charlie envisioned as he started his otherwise successful

1 career at JetBlue.

2 Judge, it's tragic we are here. I suppose it's part
3 of the trade in what I've chosen to pursue. But it is tragic.
4 I know for Charlie and his family it has been really, really
5 difficult.

6 Again, Judge, for all the reasons I said in my memo
7 and otherwise, I would ask for any nonincarceratory sentence
8 that the Court feels is just and appropriate.

9 THE COURT: Thank you.

10 MR. WRIGHT: Thank you.

11 THE COURT: Mr. Hernandez, I read your letter, but I'm
12 happy to hear anything you would like to say today.

13 Just bring the microphone close, sir, so I can hear
14 you, sir.

15 THE DEFENDANT: Your Honor, I come to you deeply,
16 deeply sorry. I'm sorry to my family. I know now, through
17 therapy, my bipolar disorder hindered me to know the risk and
18 the factors of what I was doing. It's not an excuse. I beg
19 you to have mercy on me. I'm sorry.

20 I know that by me seeking treatment still, I need to
21 do it to get better. I can come back to society and be a
22 productive person that I know I can be.

23 All I can say is, I'm sorry for what I did because I
24 didn't have no concern because I didn't know what was right or
25 wrong. But I do now, through my treatment, through everything

1 that I have gone through in this past months, and I hope that
2 you have mercy on me.

3 That's all I can ask from you, your Honor.

4 THE COURT: Thank you, Mr. Hernandez.

5 Take a minute.

6 You're done, sir?

7 THE DEFENDANT: I just want you to allow me to be the
8 son, the brother, and the father figure that I can be to my
9 niece and nephew. Please allow me to do that, your Honor.

10 THE COURT: Thank you, Mr. Hernandez.

11 I am required to consider the advisory range of 24 to
12 30 months, as well as various other factors that are outlined
13 in a provision of the law -- it is 18 United States Code
14 Section 3553(a) -- and I have done so.

15 Those factors include, but are not limited to, the
16 nature and circumstances of the offense and the personal
17 history and characteristics of the defendant, because each
18 defendant must be considered individually as a person.

19 Judges are also required to consider the need for the
20 sentence imposed to reflect the seriousness of the offense,
21 promote respect for the law, provide just punishment for the
22 offense, afford adequate deterrence to criminal conduct,
23 protect the public from future crimes of the defendant, and
24 avoid unwarranted sentencing disparities, among other things.

25 I think if you ask most judges what the hardest thing

1 they do is, it's sentencing. But some sentencings are
2 admittedly harder than others, and this one, as was noted
3 earlier, is especially difficult because, as I said, I don't
4 have any reason to doubt that Mr. Hernandez is a good person,
5 who has done a lot of good things in his life, but he also
6 engaged in this very serious conduct for a lengthy period of
7 time, and I have got to balance all those factors that I just
8 mentioned, which is an especially hard thing to do today.

9 Mr. Hernandez was among a network of flight attendants
10 that abused their positions to illegally transport drug
11 proceeds from New York City to the Dominican Republic on behalf
12 of an international money laundering operation. As known crew
13 members, they were able to slip through TSA security
14 undetected, and he knew that he was smuggling drug money, and
15 he did it repeatedly for five years. If this had been a week
16 or two weeks or a month, just a short lapse in judgment, I
17 would look at this case differently. But this was five years,
18 with the government estimating that he laundered approximately
19 two and a half million dollars, even if he only received a
20 small portion in return. And he only stopped because he saw
21 someone else get arrested.

22 Mr. Hernandez, although you didn't sell the drugs
23 yourself, and I know that, you aided and abetted these drug
24 conspiracies to help transport the proceeds internationally.
25 Drugs like fentanyl cause real harm to real people. I've had a

1 number of cases since I've been a judge where people have died
2 of fentanyl overdoses. I have seen those parents.

3 I see your parents, your family here today, and how
4 traumatized they are, but I have also seen cases where parents
5 of young people have died with fentanyl doses. Like, this
6 causes real harm to real people, and these organizations can't
7 function without getting their proceeds, right, and you helped
8 in that process. And, as I said, you didn't do it for a week
9 or two weeks or even a year. You did it for five years.

10 With that said, Mr. Hernandez immediately accepted
11 responsibility. He waived indictment. He pled guilty. He is
12 now 42. He is engaged. He has a history, obviously, of
13 gainful employment. He has no other criminal history. He has
14 no history of violence. So those are all things that I'm
15 considering today.

16 Most critically, I think, in terms of mitigating
17 factors, Mr. Hernandez has some real physical and mental health
18 issues that present a significant and, as the government noted,
19 unique mitigating factor here.

20 I want to make sure that he is safe and that he can
21 get whatever medical treatment that he needs.

22 There is no doubt that Mr. Hernandez is genuinely
23 remorseful. He has been compliant with terms of his pretrial
24 release. But, ultimately, I have to balance the mitigating
25 factors with the need to deter others from engaging in conduct

1 like this, and I really do think deterrence within this
2 community of flight attendants and others who work in that
3 industry is real, so I have done the best I can to balance
4 those factors, and I am ready to impose sentence.

5 Mr. Hernandez, could you please rise.

6 It's the judgment of this Court that you be committed
7 to the custody of the Bureau of Prisons for a term of three
8 months to be followed by a term of supervised release of three
9 years, nine months of which will be placed on home detention.

10 I believe that this sentence is sufficient but not
11 greater than necessary to comply with the purposes of
12 sentencing set forth in the law.

13 You can be seated, sir.

14 I do want to be clear about one thing. I confirmed
15 before the sentence today that he will not be designated to the
16 Metropolitan Detention Center. And if he is designated there,
17 I want you to reach out to me right away. I am going to make
18 any recommendations that you request, Mr. Wright, with respect
19 to designation, and I'm happy, actually, to make a phone call,
20 as well, to the Bureau of Prisons and follow up more directly
21 than I normally would to ensure that he is placed somewhere
22 where he can be safe and get the medical care that he needs.

23 Now I am going to read the conditions of your
24 supervised release. You will be on supervised release for
25 three years. As I said, nine months will be on home detention.

1 You will be allowed to work on home detention. You will be
2 allowed to go to doctors, religious services, but it's still
3 another form of punishment.

4 The mandatory and standard conditions of release are
5 on pages 25 through 27 of the presentence report. Would you
6 like me to read those out loud, or do you waive their public
7 reading?

8 MR. WRIGHT: Defense waives its public reading.

9 THE COURT: I will just note that Mr. Hernandez
10 already noted that he read the presentence report, but I'm just
11 going to ask you to go over those again yourself.

12 Are there any objections to the standard conditions of
13 release?

14 MR. WRIGHT: No objections, your Honor.

15 THE COURT: Excuse me. The special conditions is what
16 I meant to say.

17 MR. WRIGHT: No.

18 THE COURT: Consistent with what's recommended on page
19 27, you must submit to a search of your person, property,
20 residence, office, vehicle, papers, computers, as defined by 18
21 United States Code Section 1030(e)(1), cell phones or other
22 devices or media used for electronic communications, data
23 storage, cloud storage, or network storage.

24 The probation office may conduct a search under this
25 condition only when there is reasonable suspicion that you

1 violated a condition of your supervision or committed a new
2 crime and that the areas to be searched contain evidence of
3 this violation or crime. The search must be conducted by a
4 United States Probation Officer, although other law enforcement
5 officers may assist the probation officer. The search must be
6 conducted at a reasonable time and in a reasonable manner.
7 Failure to submit on a search may be grounds for revocation of
8 release. You must warn any other occupants that the premises
9 may be subject to search pursuant to this condition. And I'm
10 imposing this condition because the offense involved receiving
11 and transporting proceeds in a secretive way and to protect the
12 public and deter others.

13 In addition, in light of the mental health issues that
14 have been raised and listed in the presentence report in
15 paragraphs 53 and 54, you must participate in an inpatient
16 mental health treatment program -- sorry.

17 You have no objection to the inpatient? I hadn't
18 focused on inpatient versus outpatient.

19 MR. WRIGHT: I had assumed it meant outpatient, your
20 Honor.

21 THE COURT: I am going to leave that vague. I am just
22 going to say: He must participate in a mental health treatment
23 program approved by the probation office, but I am not
24 specifically going to say inpatient, because I don't know that
25 that's what will be necessary here. And I want the probation

1 department to take a closer look at that.

2 MR. WRIGHT: I know he was evaluated by pretrial, and
3 they felt the current outpatient program he has is appropriate.
4 By all appearances, it seems to be effective.

5 THE COURT: Why don't I actually specify that it will
6 be outpatient mental health treatment program. If the
7 probation department disagrees, they can come back to me, but I
8 would rather that be the presumption, that it's outpatient.

9 MR. WRIGHT: Thank you.

10 THE COURT: Approved by the probation office.

11 You must continue to take any prescribed medications
12 unless otherwise instructed by the healthcare provider. You
13 must contribute to the cost of services rendered based on your
14 ability to pay and the availability of third-party payments.
15 The Court authorizes the release of available psychological and
16 psychiatric evaluations and reports, including the presentence
17 investigation report, to the healthcare provider. And that's,
18 as I noted, for the reasons noted.

19 And you will be supervised in the district of your
20 residence.

21 I'm not going to impose a fine because I think it
22 would be difficult to pay one, particularly with the forfeiture
23 order. I'm imposing the mandatory special assessment of \$100.

24 The government is not seeking restitution, but I did
25 sign a consent preliminary order of forfeiture money judgment

1 in the amount of \$121,215, \$61,215 of which is joint and
2 several with defendant Sara Valerio Pujols. And I will make
3 that order part of my judgment.

4 Before I read Mr. Hernandez his appellate rights, I'd
5 like to discuss a surrender date. It is usually around 60
6 days, but I can be flexible.

7 MR. WRIGHT: Sixty days is fine, your Honor.

8 THE COURT: Ms. Cavale, what would you recommend?

9 Does Mr. Hernandez want to do this sooner rather than
10 later? I assume he wants to be home for the holidays, but some
11 people want to just get this over with.

12 MR. WRIGHT: Judge, defense is good with 60 days.

13 THE COURT: February 17 is a holiday, so do you want
14 to say February 24?

15 MR. WRIGHT: Yes.

16 THE COURT: He shall surrender for service at the
17 institution designated by the Bureau of Prisons by 2 p.m. on
18 February 24.

19 Again, if you don't receive notice of the designated
20 facility or if he is designated to MDC, let me know
21 immediately.

22 MR. WRIGHT: Yes, I will. If he's designated to a
23 jail that's not the Metropolitan Detention Center, but I have
24 concerns about that particular jail, let's say it is Fort Dix
25 or wherever, can I write the Court?

1 THE COURT: You can. The problem is, it's really up
2 to the Bureau of Prisons. I can make a recommendation. I'd
3 like to make the best recommendation I can make early on. I
4 don't know how the Bureau of Prisons will kind of assess this.

5 Like, on one hand, the charge is operating an
6 unlicensed money transmission business, so I think that's
7 viewed as a nonviolent crime, and the likelihood -- I want him
8 to get in a low-security prison, if at all possible. I think
9 that should be our goal, and, as I said, I can reach out. It's
10 really up to the Bureau of Prisons. So I worry if once the
11 designation is made, there isn't anything I will be able to do
12 about it.

13 MR. WRIGHT: What I'll do is, I will talk to my client
14 and his family, and I'll write the Court promptly with what we
15 recommend.

16 THE COURT: Should I wait to issue the judgment?

17 MR. WRIGHT: Yes. I think that's right. If that's
18 OK.

19 THE COURT: Yeah. I just want to do that as soon as
20 possible.

21 Can you get it to us by Monday?

22 MR. WRIGHT: Absolutely, yes. Perfect.

23 THE COURT: Thank you.

24 Is there any legal reason this sentence cannot be
25 imposed?

1 MR. GIANFORTI: No, your Honor.

2 MR. WRIGHT: No, your Honor.

3 THE COURT: That's the sentence of this Court.

4 You have a right to appeal your conviction and
 5 sentence, except to whatever extent you may have validly waived
 6 that right as part of your plea agreement. If you do choose to
 7 appeal, the notice of appeal must be filed within 14 days of
 8 the judgment of conviction. If you are not able to pay for the
 9 cost of an appeal, you may apply for leave to appeal *in forma*
 10 *pauperis*, which simply means that court costs, such as filing
 11 fees, will be waived. If you request, the Clerk of Court will
 12 prepare and file a notice of appeal on your behalf.

13 As I said earlier, and I say this a lot at sentencing,
 14 just because I believe it to be true, I don't think people need
 15 to be defined by the worst mistakes they ever made.

16 Mr. Hernandez you obviously have so much love and
 17 support, and I read all those letters. And people described
 18 you as charismatic and family oriented and funny and reliable
 19 and nurturing and selfless and a remarkable person, and that's
 20 all still true. How you are defined in life is just going to
 21 be about how you live your life going forward.

22 But I just felt like this is a sentence I needed to
 23 impose, for the reasons that I stated, to deter others from
 24 engaging in this serious and harmful conduct, but that doesn't
 25 take anything away from sort of who you are and the goodness of

1 who you are. So I would just do as best you can to lean into
2 all the support you have behind you and around you, and I wish
3 you luck going forward.

4 Are there any other applications at this time?

5 MR. GIANFORTI: No, your Honor. There are no
6 underlying charges, so there is no motion to dismiss.

7 THE COURT: Mr. Wright, anything else from you?

8 MR. WRIGHT: Nothing, your Honor.

9 THE COURT: Thank you. We are adjourned.

10 (Adjourned)